

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 327 Household Movers

SPONSOR(S): Yarborough

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 336

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee		Wright	Anstead
2) Civil Justice & Claims Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

In order for an intrastate mover to operate in Florida, the mover must register with the Department of Agriculture and Consumer Services (DACS) and comply with the provisions of chapter 507, F.S.

The bill provides that a mover commits a violation of Florida law by knowingly refusing or failing to disclose in writing to a customer before a household move that the mover or an employee of a mover who has access to the customer's dwelling or property has been convicted of certain sexual offenses.

If DACS seeks a civil penalty for this violation, the bill requires DACS to pursue a minimum \$10,000 fine.

The bill directs DACS to deny or refuse to renew a registration if the mover has not satisfied a civil fine or penalty related to this violation.

The bill does not appear to have a fiscal impact on state or local governments.

The bill takes effect on October 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Chapter 507, F.S., establishes the law applying to the operations of any mover or moving broker (broker) engaged in the intrastate transportation or shipment of household goods originating in this state and terminating in this state.¹ Movers and brokers engaged in the interstate transportation of household goods are regulated by the Federal Motor Carrier Safety Administration within the United States Department of Transportation.²

A “mover” is a person who, for compensation, contracts for or engages in the loading, transportation or shipment, or unloading of household goods as part of a household move. The term does not include a postal, courier, envelope, or package service that does not advertise itself as a mover or moving service.³

A “broker” is a person who, for compensation, arranges for another person to load, transport or ship, or unload household goods as part of a household move or who, for compensation, refers a shipper to a mover by telephone, postal or electronic mail, Internet website, or other means.⁴

“Household goods” means personal effects or property commonly found in a home, personal residence, or other dwelling, such as household furniture. It does not include freight or personal property moving to or from a place of business.⁵

“Household move” means the loading of household goods into a mode of transportation or shipment; the transportation or shipment of those household goods; and the unloading of those household goods, when the transportation or shipment originates and terminates at one of the following ultimate locations:

- From one dwelling to another;
- From a dwelling to a storehouse or warehouse that is owned or rented by the shipper or the shipper’s agent; or
- From a storehouse or warehouse that is owned or rented by the shipper or the shipper’s agent to a dwelling.⁶

A mover or broker who is engaged in intrastate moving is required to register with DACS.⁷ Required registration information includes the mover’s or broker’s legal business and trade name, mailing address, and business locations; the full names, addresses, and telephone numbers of its owners or corporate officers and directors and the Florida agent of the corporation; corporation formation information; fictitious name information; and proof of required insurance or alternative coverage.⁸

Denial of Registration or Registration Renewal

¹ s. 507.02(2), F.S.

² 49 C.F.R §§ 375.101 and 375.103 (2012).

³ s. 507.01(9), F.S.

⁴ s. 507.01(10), F.S.

⁵ s. 507.01(7), F.S.

⁶ s. 507.01(8), F.S.

⁷ s. 507.03(1), F.S.

⁸ *Id.*

Section 507.03(8), F.S., permits DACS to deny, refuse to renew, or revoke the registration of any mover or broker when it determines that the mover or broker, or any of the mover's or broker's directors, officers, owners, or general partners has:

- failed to meet the requirements for registration as provided in ch. 507;
- been convicted of a crime involving fraud, dishonest dealing, or any other act of moral turpitude;
- not satisfied a civil fine or penalty arising out of any administrative or enforcement action brought by any governmental agency or private person based upon conduct involving fraud, dishonest dealing, or any violation of this chapter;
- pending against him or her any criminal, administrative, or enforcement proceedings in any jurisdiction, based upon conduct involving fraud, dishonest dealing, or any other act of moral turpitude; or
- had a judgment entered against him or her in any action brought by DACS or the Department of Legal Affairs under this chapter or the Florida Deceptive and Unfair Trade Practices Act.

Civil Penalties

DACS is permitted to seek a civil penalty in the Class II category for each violation of this chapter.⁹ Class categories are defined as follows:

- Class I- A fine not exceeding \$1,000 may be imposed for each violation of this class.
- Class II- A fine not exceeding \$5,000 may be imposed for each violation of this class.
- Class III- A fine not exceeding \$10,000 may be imposed for each violation of this class.
- Class IV- A fine of \$10,000 or more may be imposed for each violation of this class.¹⁰

Sexual Offense Criteria

Section 92.55, F.S., defines "sexual offense" as any offense specified in s. 775.21(4)(a)1., F.S., relating to "sexual predators," or s. 943.0435(1)(h)1.a.(I), F.S., relating to "sexual offenders."

The criminal offenses listed in ss. 775.21(4)(a)1. and 943.0435(1)(h)1.a.(I), F.S., are as follows:

- sexual misconduct by a care or support provider with an individual with a developmental disability who meets certain criteria (s. 393.135(2), F.S.);
- sexual misconduct by an employee of the Department of Children and Families (DCF) with a patient who meets certain criteria (s. 394.4593(2), F.S.);
- kidnapping, where the victim is a minor (s. 787.01, F.S.);
- false imprisonment, where the victim is a minor (s. 787.02, F.S.);
- luring or enticing a child, where the victim is a minor (s. 787.025(2)(c), F.S.);
- human trafficking (s. 787.06(3)(b), (d), (f), or (g) and former s. 787.06(3)(h), F.S.);
- sexual battery (s. 794.011, F.S., excluding s. 794.011(10), F.S.);
- unlawful sexual activity with certain minors (s. 794.05, F.S.);
- procuring a person under the age of 18 for prostitution (former s. 796.03, F.S.);
- selling or buying of minors into sex trafficking or prostitution (former s. 796.035, F.S.);
- lewd or lascivious offense committed upon or in the presence of persons less than 16 years of age (s. 800.04, F.S.);
- video voyeurism of a minor (s. 810.145(8), F.S.);
- lewd or lascivious offense committed upon or in the presence of an elderly person or disabled adult (s. 825.1025, F.S.);
- sexual performance by a child (s. 827.071, F.S.);
- certain acts in connection with obscenity (s. 847.0133, F.S.);
- computer pornography related to minors (s. 847.0135, F.S., excluding s. 847.0135(6), F.S.);
- transmission of child pornography by electronic device/equipment (s. 847.0137, F.S.);
- transmission of material harmful to minors to a minor by electronic device/equipment (s. 847.0138, F.S.);
- selling or buying of minors for portrayal in a visual depiction engaging in sexually explicit conduct (s. 847.0145, F.S.);

⁹ s. 507.10(2), F.S.

¹⁰ s. 570.97(1), F.S.

- offenses concerning racketeering and illegal debts where the court makes a written finding that the racketeering activity involved at least one sexual offense listed above (s. 895.03, F.S.);
- sexual misconduct by a DCF provider with a forensic client who meets certain criteria (s. 916.1075(2), F.S.);
- sexual misconduct by an employee of the Department of Juvenile Justice with a juvenile offender (s. 985.701(1), F.S.); and/or
- any similar offense committed in this state which has been redesignated from a former statute number to one of those listed above; and/or
- a violation of a similar law to those listed above in another jurisdiction.

Effect of Proposed Changes

The bill creates a new statutory violation for movers at s. 507.07(9), F.S., which states that a mover violates this chapter if the mover knowingly refuses or fails to disclose in writing to a customer before a household move that the mover or an employee of the mover who has access to the dwelling or property of the customer has been convicted of a sexual offense, as defined in s. 92.55, F.S.

The bill creates s. 507.03(9), F.S., to require that DACS deny or refuse to renew the registration of a mover or deny a registration or renewal request by any of the mover's directors, officers, owners, or general partners if the mover has not satisfied a civil fine or penalty for a violation of s. 507.07(9), F.S..

The bill amends s. 507.10(2), F.S., to require DACS to seek a Class IV category penalty should DACS seek a civil penalty for a violation of s. 507.07(9), F.S.

The bill takes effect on October 1, 2017.

B. SECTION DIRECTORY:

Section 1 Creates s. 507.03(9), F.S., relating to registration.

Section 2 Creates s. 507.07(9), F.S., relating to violations.

Section 3 Amends s. 507.10(2), F.S., relating to civil penalties.

Section 4 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Unknown

2. Expenditures:

Unknown

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Movers may incur expenses related to providing customers with written notices and performing background checks on employees.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES